CONFIDENTIAL 11/20/70

Dear Jim,

Tom Kelley just phoned me about what he said Archives (no name mentioned) told him I had written them: that I have a copy of the memo of transfer. They told him I had written ~~him~~ them such a letter recently. I do not believe he lied to me. He tried to phone me yesterday, when I was in DC.

I got my file out and read him my appeal on just this to Vawter, which says something entirely different (and I think it notable that they did not send him a copy of the letter). It says that I am appealing their refusal to give me a copy of the government's copy that the Secret Service had given them to give me, which Tom confirmed.

They are having a conference on this next week at Justice. I told Tom a week ago that the government's "answer" put me in the position where I felt I'd have to subpena this memo, and I repeated the current Justice interpretation of agency of primary or paramount interest and referral, as given me by Nolapp. They do not abide by the DC's memo. I also told him that while I would eventually want to use this in my writing, my present interest in it was because of this suit. I then showed him both the answer and the complaint.

All of this makes me wonder if there might not be an extra reason for Justice's not seeking dismissal, as they have in all other cases. Here they have given me what I asked for, the FBI Exhibit 60 pictures, with no opposition, not even delay. Thus, I think, they will be making it appear in court that the Secret Service is responsible for the suppressions, not Justice or the FBI. The memo of transfer was by the SS, the stuff had been in the possession of the SS, the film was illegally disposed of by the SS, things like that. Even the disappearance of the tag from the coat can be made to look like the SS removed it between the time Dunes had it on the stand and now (Justice seems not to have had it in the interval). And who will be giving the SS counsel who defending them if they get into court on this? Justice, naturally!

These pictures are the one thing I asked of Justice that I have gotten without great trouble.

Maybe Justice has not planned all of this the way I consider possible. I know I'd never want a lawyer to represent me when he had this conflict of interest- at least temptation.

But you give me some reasonable explanation for their failure to make pro forma request for dismissal, especially when they know from having once been beaten on it that there exists a legal determination of fact that the CBA-family contract is illegal - and that is the issue in 8569-70. This is the one thing in which I've expressed strong interest, where I've gone through the steps pre-requisite to suit - in which Justice is not involved. You have my letters, so you know this.

My mail is again getting careless attention. Something I sent to New York "special handling" took at least three weeks to get there, and five letters, no two mailed the same day, all arrived in a single delivery. Coincidence? The letter you sent that I showed you is not the only one with signs of resealing. I have had another examined by an expert and he says it was done.

Sincerely,